

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

07 - 20397 CR - GOLD
CASE NO.

18 U.S.C. § 1347

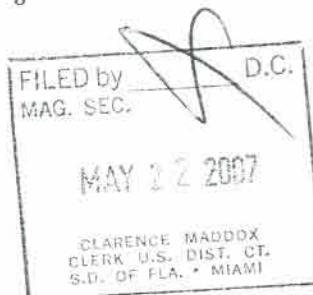
18 U.S.C. § 2

UNITED STATES OF AMERICA

vs.

ALEJANDRO DE LA VICTORIA,

Defendant.



INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At all times relevant to this Indictment:

The Medicare Program

1. The Medicare Program ("Medicare") was a federally funded program that provided free or below-cost health care benefits to certain individuals, primarily the elderly, blind, and disabled. The benefits available under Medicare were governed by federal statutes and regulations. The United States Department of Health and Human Services ("HHS"), through its agency, the Centers for Medicare and Medicaid Services ("CMS"), oversaw and administered Medicare. Individuals who received benefits under Medicare were commonly referred to as Medicare "beneficiaries."

2. Medicare was a "health care benefit program," as defined by Title 18, United States Code, Section 24(b).

3. Part B of the Medicare Program was a medical insurance program that covered, among other things, certain physician and outpatient services, and other health care benefits, items, and services, including durable medical equipment (“DME”), that were medically necessary and ordered by licensed medical doctors or other qualified health care providers. DME is equipment that is designed for a specific medical purpose and for repeated use, such as wound care supplies, knee braces, prosthetic limbs, back braces, wrist braces, and wheelchairs.

4. For Florida Medicare beneficiaries, Palmetto Government Benefits Administrators (“Palmetto GBA”), had a contract with HHS to receive, process and pay claims by Medicare beneficiaries for reimbursement for the cost of DME and related health care benefits, items, or services supplied or provided to such beneficiaries.

Medicare Billing and Payment Procedures

5. A DME company that sought to participate in Medicare Part B and bill Medicare for the cost of DME and related benefits, items, and services was required to apply for and receive a “supplier number.” The supplier number allowed a DME company to submit bills, known as “claims,” to Medicare to obtain reimbursement for the cost of DME and related health care benefits, items, and services that a DME company had supplied or provided to beneficiaries.

6. To receive payment from Medicare, a DME company, using its supplier number, would submit a health insurance claim form known as a CMS-1500. Medicare permitted DME companies to submit a CMS-1500 electronically or by way of a paper claim form. Each claim form required certain important information, including: (a) the Medicare beneficiary’s name and identification number; (b) the identification number of the doctor or other qualified health care provider who ordered the health care benefit, item, or service that was the subject of the claim; (c)

the health care benefit, item, or service that was provided or supplied to the beneficiary; (d) the billing codes for the benefit, item, or service; and (e) the date upon which the benefit, item, or service was provided or supplied to the beneficiary.

7. Medicare, through Palmetto GBA, generally would pay a substantial portion of the cost of the DME or related health care benefits, items, and services that were medically necessary and ordered by licensed doctors or other qualified health care providers.

8. Payments under Medicare Part B were often made directly to the DME company rather than to the patient/beneficiary. For this to occur, the beneficiary would assign the right of payment to the DME company or other health care providers. Once such an assignment took place, the DME company would assume the responsibility for submitting claims to, and receiving payments from, Medicare.

Precise Medical Services, Inc.

9. Precise Medical Services, Inc. ("Precise Medical") was a Florida corporation that was incorporated on or about July 21, 2005. On or about September 15, 2006, when Precise Medical was administratively dissolved by the State of Florida, Precise Medical was located in Miami-Dade County.

10. Precise Medical obtained Medicare supplier number 5601860001 in or around February 2006 and was thus authorized to submit claims to Medicare for DME benefits, items, and services. From in or around March 2006 through in or around September 2006, Precise Medical submitted approximately \$3,016,566 in claims to Medicare, seeking reimbursement for DME benefits, items, and services that Precise Medical had supposedly provided to Medicare beneficiaries.

11. Defendant, **ALEJANDRO DE LA VICTORIA**, a Miami-Dade County resident, was the owner of Precise Medical.

COUNTS 1-6
HEALTH CARE FRAUD
(18 U.S.C. §§ 1347 and 2)

1. Paragraphs 1 through 11 of the General Allegations section of this Indictment are realleged and incorporated as though fully set forth herein.

2. From in or around June 2005, and continuing through in or around December 2006, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

ALEJANDRO DE LA VICTORIA,

in connection with the delivery of and payment for health care benefits, items, and services, did knowingly and willfully execute, and attempt to execute, a scheme and artifice to defraud Medicare, a health care benefit program affecting commerce, as defined by Title 18, United States Code, Section 24(b), and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of, Medicare, that is, the defendant caused Precise Medical Services, Inc. to submit false and fraudulent claims to Medicare, through Palmetto GBA, seeking reimbursement for the cost of various DME items and services.

Purpose of the Scheme and Artifice

3. It was the purpose of the scheme and artifice for the defendant to unlawfully enrich himself by, among other things: (a) submitting or causing the submission of false and fraudulent claims to Medicare; (b) concealing the submission of false and fraudulent Medicare claims; and/or (c) diverting fraud proceeds for the personal use and benefit of the defendant and others.

Manner and Means Used to Accomplish the Scheme and Artifice

The manner and means by which the defendant sought to accomplish the scheme and artifice included, but were not limited to, the following:

4. **ALEJANDRO DE LA VICTORIA** incorporated Precise Medical in the State of Florida and listed himself as president in the company's articles of incorporation.

5. On behalf of Precise Medical, **ALEJANDRO DE LA VICTORIA** applied to Medicare for a Medicare supplier number in order to submit claims to Medicare.

6. **ALEJANDRO DE LA VICTORIA** submitted or caused the submission of numerous false and fraudulent Medicare claims for reimbursement for the cost of DME-related items and services that supposedly had been provided by Precise Medical to Medicare beneficiaries. The claims were false and fraudulent because, among other things, the doctor who allegedly ordered the DME items and services had not seen the Medicare beneficiaries, had not ordered the items and services, and/or the DME items and services had not been provided to the Medicare beneficiaries. As a result of these claims, Medicare paid Precise Medical approximately \$1,465,000.

7. To create the illusion that Precise Medical had purchased the DME items and services that it supposedly was providing to Medicare beneficiaries, and in order to enrich himself and to conceal or disguise proceeds of the billing fraud scheme, **ALEJANDRO DE LA VICTORIA** caused the preparation of numerous checks, drawn on Precise Medical's bank account, and made payable to several companies and others, for the payment of supposed business expenses of Precise Medical. Many of those checks were cashed or made out to companies owned by **ALEJANDRO DE LA VICTORIA**.

Acts in Execution and Attempted Execution of the Scheme and Artifice

On or about the dates set forth as to each count below, in Miami-Dade County, in the Southern District of Florida, and elsewhere, **ALEJANDRO DE LA VICTORIA**, in connection with the delivery of and payment for health care benefits, items, and services, did knowingly and willfully execute, and attempt to execute, the above-described scheme and artifice to defraud a health care benefit program affecting commerce, that is Medicare, and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of said health care benefit program:

Count	Medicare Beneficiary	Approx. Date of Claim	Medicare Claim Number	Item Claimed; Approx. Amount Claimed
1	M.J.	6/12/2006	106163700292000	Negative pressure wound therapy pump (E2402); \$1373.17
2	G.R.	6/16/2006	106168753159000	Negative pressure wound therapy pump (E2402); \$1373.17
3	M.S.	7/6/2006	106188739574000	Powered pressure-reducing air mattress (E0277); \$556.06

Count	Medicare Beneficiary	Approx. Date of Claim	Medicare Claim Number	Item Claimed; Approx. Amount Claimed
4	L.F.	9/25/2006	106268834146000	Powered pressure-reducing air mattress (E0277); \$417.05
5	L.A.	9/25/2006	106268834184000	Powered pressure-reducing air mattress (E0277); \$417.05
6	J.J.	9/29/2006	106272736660000	Powered pressure-reducing air mattress (E0277); \$417.05

In violation of Title 18, United States Code, Sections 1347 and 2.

A TRUE BILL

~~FOREPERSON~~


R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY


LUIS M. PEREZ
ASSISTANT U.S. ATTORNEY

UNITED STATES OF AMERICA

vs.

ALEJANDRO DE LA VICTORIA,

07 - 30397CR - GOLD
CASE NO.

CERTIFICATE OF TRIAL ATTORNEY*

Defendant.

Superseding Case Information:

Court Division: (Select One)

X Miami Key West
 FTL WPB FTP

New Defendant(s) Yes No
Number of New Defendants
Total number of counts

I do hereby certify that:

1. I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.

2. I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.

3. Interpreter: (Yes or No) Yes
List language and/or dialect Spanish

4. This case will take 5 days for the parties to try.

5. Please check appropriate category and type of offense listed below:
(Check only one) (Check only one)

I	0 to 5 days	<u>X</u>	Petty	<u> </u>
II	6 to 10 days	<u> </u>	Minor	<u> </u>
III	11 to 20 days	<u> </u>	Misdem.	<u> </u>
IV	21 to 60 days	<u> </u>	Felony	<u>X</u>
V	61 days and over	<u> </u>		

6. Has this case been previously filed in this District Court? (Yes or No) No

If yes:
Judge: Case No.

(Attach copy of dispositive order)
Has a complaint been filed in this matter? (Yes or No) No

If yes:
Magistrate Case No.
Related Miscellaneous numbers:
Defendant(s) in federal custody as of
Defendant(s) in state custody as of
Rule 20 from the District of

Is this a potential death penalty case? (Yes or No) No

7. Does this case originate from a matter pending in the U.S. Attorney's Office prior to April 1, 2003? Yes X No

8. Does this case originate from a matter pending in the U. S. Attorney's Office prior to April 1, 1999? Yes X No
If yes, was it pending in the Central Region? Yes No

9. Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to October 14, 2003? Yes X No

10. Does this case originate from a matter pending in the Narcotics Section (Miami) prior to May 18, 2003? Yes X No

Luis M. Perez
LUIS M. PEREZ
ASSISTANT UNITED STATES ATTORNEY
FL. Bar No. 501395

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
PENALTY SHEET

Defendant's Name: ALEJANDRO DE LA VICTORIA

Case #:

07-20397cr-GOLD

Counts #: 1 - 6

Health Care Fraud

18 U.S.C. § 1347

*Max. Penalty: 10 years' imprisonment as to each count

Counts #:

*Max. Penalty:

Counts #:

*Max. Penalty:

Count #:

*Max. Penalty:

Count #:

*Max. Penalty:

*Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.